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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,648	04/16/2004	Arthur E. Colvin JR.	2232-198	8486
6449	7590	04/02/2009		
ROTHWELL, FIGG, ERNST & MANBECK, P.C.			EXAMINER	
1425 K STREET, N.W.			DINH, TUAN T	
SUITE 800				
WASHINGTON, DC 20005			ART UNIT	PAPER NUMBER
			2841	
NOTIFICATION DATE	DELIVERY MODE			
04/02/2009	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,648	<b>Applicant(s)</b> COLVIN ET AL.
	<b>Examiner</b> Tuan T. Dinh	<b>Art Unit</b> 2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 17 December 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-49 is/are pending in the application.

4a) Of the above claim(s) 8-11,13 and 15-49 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-7,12,14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/146/08)  
 Paper No(s)/Mail Date 01/09/10/05; 07/04/

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's election without traverse of Specie I, figures 1-3 (claims 1-7, 12, and 14) in the reply filed on 12/17/08 is acknowledged.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-7, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoakum (U.S. Patent 5,963,132) in view of Colvin Jr. (U.S. Patent 6,304,766).

As to claims 1-5, 14, Yoakum discloses an encapsulated implantable transponder (10), comprising: a fully enclosed housing (14); and a circuit (12) (a circuit board 18 having components 16, 20, etc.) encased within a brick of epoxy (26) containing the circuit (12) housed in said housing (14).

Yoakum discloses all of the limitations except for the housing is not made from glass or made from organic polymer or PMMA.

Colvin teaches an optical-based sensor comprising a housing (12) or in page 6 of a specification (a housing 102, US 6,304,766) to housing a circuit board.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a teaching of Colvin employed the housing of Yoakum in order to provide a superior optical properties.

As to claim 6, Yoakum discloses at least part of the circuit (12) is covered with an epoxy (26) including a light blocking pigment.

As to claim 7, Yoakum discloses the circuit comprises a substrate (18) and a plurality of components (16, 20, etc.) attached to said substrate, see figure 1.

As to claim 12, Yoakum discloses the housing (14) is substantially cylindrical in shape and has an inner diameter.

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stafford et al. and Brune et al. disclose related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T. Dinh whose telephone number is 571-272-1929. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reichard Dean can be reached on 571-272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan T Dinh/  
Primary Examiner, Art Unit 2841.